

ANALYSIS

This ordinance amends the petroleum pipeline franchise granted by Ordinance No. 99-0068F, as amended, to Atlantic Richfield Company ("ARCO"), to reflect a transfer of the franchise rights from ARCO to BP West Coast Products LLC ("Franchisee"), to change the formula for the calculation of the base annual franchise fee, and to change the amount of the fees payable to the County upon its consent to the transfer of the franchise rights.

The annual franchise fee payable to the County by Franchisee will be determined according to a formula contained in Section 2 of this franchise ordinance. Franchisee has paid a one-time transfer fee of two thousand five hundred dollars (\$2,500).

RAYMOND G. FORTNER, JR.
County Counsel

By 

GRACE V. CHANG
Senior Deputy County Counsel
Property Division

GVC:gjh

10/1/07 (requested)

10/19/07 (revised)

ORDINANCE NO. 2007-0104F

An ordinance amending the petroleum pipeline franchise granted by Ordinance No. 99-0068F, as amended, to Atlantic Richfield Company, (1) to reflect a transfer of the franchise rights to BP West Coast Products LLC, (2) to change the formula for the calculation of the base annual franchise fee, and (3) to change the amount of the fees payable to the County upon its consent to the transfer of the franchise rights.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. SECTION 1. A of Ordinance No. 99-0068F, as amended, is amended to read as follows:

SECTION 1. A. The right, privilege, and franchise is granted to ~~Atlantic Richfield Company ("ARCO")~~BP West Coast Products LLC, a Delaware Limited Liability Company and its subsidiaries, (hereinafter, "Franchisee"), its successors and assigns, for the period of ~~fifteen (15) years, beginning with the operative date of~~through May ~~30~~29, ~~1999~~2014, to lay, construct, maintain, operate, renew, repair, change the size of, and remove or abandon in place pipes and pipelines for the collection, transportation, and distribution of oil, petroleum, gas, gasoline, other hydrocarbon substances, wet gas, industrial gas, chemicals, mud, steam, water, waste water, and other liquid substances, excluding any hazardous substances or hazardous waste within the meaning of the "Comprehensive Environmental Response Compensation and Liability Act of 1980," 42 U.S.C. 9601 et seq., as it may hereafter be amended, the "Federal Water Pollution Control Act," 33 U.S.C. 1251 et seq., as it may hereafter be amended, and the "Solid

Waste Disposal Act," 42 U.S.C. 6901 et seq., as it may hereafter be amended, together with all manholes, valves, cathodic protection systems, appurtenances, and connections necessary or appropriate for the operation of said pipes or pipelines, including poles, conduits, wires, cables, including adjunct communications lines, and other appurtenances and equipment for telegraph or telephone lines, necessary or appropriate ~~convenient~~ solely for the Franchisee's business in, under, along, or across any and all highways now or hereafter dedicated to public use within the following described service area or areas in the unincorporated territory of the County of Los Angeles, State of California and depicted on the maps attached hereto as Exhibit "A":

South Bay Unincorporated Area:

Beginning at the intersection of the southerly boundary of Pacific Coast Highway and the westerly boundary of Crenshaw Boulevard; thence northerly along the westerly boundary of Crenshaw Boulevard to the westerly boundary of the San Diego Freeway (405 Freeway); thence northerly along the westerly boundary of the San Diego Freeway (405 Freeway) to the northerly boundary of Imperial Highway; thence easterly along the northerly boundary of Imperial Highway to the easterly boundary of Long Beach Boulevard; thence southerly along the easterly boundary of Long Beach Boulevard to the westerly boundary of the Long Beach Freeway (710 Freeway); thence southerly along the westerly boundary of the Long Beach Freeway (710 Freeway) to the southerly boundary of Pacific Coast Highway; thence westerly along the southerly boundary of

Pacific Coast Highway to the point of beginning, as same streets and highways existed on February 16, 1999.

South Central Los Angeles Unincorporated Area:

Beginning at the intersection of the northerly boundary of Imperial Highway and the westerly boundary of South Normandie Avenue; thence northerly along the westerly boundary of South Normandie Avenue to the northerly boundary of West Manchester Avenue; thence easterly along the northerly boundary of West Manchester Avenue to the easterly boundary of South Vermont Avenue; thence southerly along the easterly boundary of South Vermont Avenue to the northerly boundary of Imperial Highway; thence westerly along the northerly boundary of Imperial Highway to the point of beginning, as same streets and highways existed on September 20, 1999.

Windsor Hills Unincorporated Area:

Beginning at the intersection of the northerly boundary of Stocker Street westerly boundary of South La Brea Avenue; thence easterly along the northerly boundary of Stocker Street to the easterly boundary of Crenshaw Boulevard; thence southerly along the easterly boundary of Crenshaw Boulevard to the southerly boundary of West Slauson Avenue; thence westerly along the southerly boundary of West Slauson Avenue to the westerly boundary of South La Brea Avenue; thence northerly along the westerly boundary of South La Brea Avenue to the point of beginning, as same streets and highways existed on September 20, 1999.

SECTION 2. SECTION 2. of Ordinance No. 99-0068F, as amended, is deleted in its entirety.

SECTION 3. SECTION 2. of Ordinance No. 99-0068F, as amended, is hereby added to read as follows:

SECTION 2. Consideration; Payment of Fees.

A. As additional consideration for the franchise, the Franchisee shall pay annually in arrears, on or before April 15 following the end of each calendar year, for each year during the life of the franchise ("fee payment date"), to the County, in lawful money of the United States, a franchise fee computed annually ("annual franchise fee"), as set forth below. The "base annual fee" shall be calculated according to the highway space occupied by the pipelines and/or conduits, including the protective covering, pipe casings, pipe connections, and any other appurtenance(s), such as manholes, valves, cathodic protection systems, connections, and any other structure(s).

B. The annual franchise fee payment by the Franchisee shall accrue to the County on January 1 of each year for the highway space occupied by the Franchisee's facilities as of December 31 of the calendar year immediately preceding the applicable fee payment date and shall be comprised of the base annual fee calculated at the rate of one dollar and fifty cents (\$1.50) per cubic foot of highway space occupied, as set forth in Section 2.D below, which shall be adjusted by the ratio of the price index as set forth in Section 2.E below, and computed to the nearest tenth (1/10) of a cent.

C. The nominal internal diameter of the Franchisee's pipes and conduits (metal or plastic) shall be adjusted upward to the equivalent diameter(s) of street space occupied in accordance with the following formula:

1. The highway space occupied by metal pipes and conduits shall be taken as equivalent to the volume occupied by a cylinder of equal length having a diameter of one (1) inch greater than the nominal internal diameter of the pipes and conduits.

2. The highway space occupied by plastic pipes and conduits shall be taken as equivalent to the volume occupied by a cylinder of equal length having a diameter of two (2) inches greater than the nominal internal diameter of the pipes and conduits.

3. For purposes of calculating the highway space occupied, in no event shall the diameter of any pipe or conduit (metal or plastic) be taken to be less than six (6) inches.

D. The "adjusted diameter(s)" of highway space occupied by the Franchisee's pipes and conduits derived in accordance with Section 2.C above, shall be used to calculate the base annual fee in accordance with the following formula:

1. The rate of one dollar and fifty cents (\$1.50) per cubic foot set forth in Section 2.B above, shall be converted mathematically to a linear footage base rate using the formula for the volume of a cylinder as shown below:

$$[V = (\text{Pi} \times r^2 \times L)] = [(3.1416) \times (r^2) \times (12" / 1,728") \times \$1.50]$$

2. The "adjusted diameter(s)" of highway space shall be multiplied by the applicable linear footage base rate per one (1) foot of street space occupied as set forth in the schedule of base rates below:

Pipe Diameter (In Inches)	Volume Per Foot in Cubic Feet	\$1.50 per Cubic Ft. (Rate per Linear ft.)
6.00	0.1964	\$0.2945
7.00	0.2673	\$0.4009
8.00	0.3491	\$0.5236
9.00	0.4418	\$0.6627
10.00	0.5454	\$0.8181
11.00	0.6600	\$0.9899
12.00	0.7854	\$1.1781
13.00	0.9218	\$1.3826
14.00	1.0690	\$1.6035
15.00	1.2272	\$1.8408
16.00	1.3963	\$2.0944
17.00	1.5763	\$2.3644
18.00	1.7672	\$2.6507
19.00	1.9690	\$2.9534
20.00	2.1817	\$3.2725
21.00	2.4053	\$3.6079
22.00	2.6398	\$3.9597
23.00	2.8853	\$4.3279
24.00	3.1416	\$4.7124
25.00	3.4089	\$5.1133
26.00	3.6870	\$5.5305
27.00	3.9761	\$5.9641
18.00	1.7672	\$2.6507
29.00	4.5870	\$6.8804
30.00	4.9088	\$7.3631
31.00	5.2415	\$7.8622
32.00	5.5851	\$8.3776
33.00	5.9396	\$8.9094
34.00	6.3050	\$9.4575
35.00	6.6814	\$10.0220
36.00	7.0686	\$10.6029
37.00	7.4668	\$11.2001
38.00	7.8758	\$11.8137
39.00	8.2958	\$12.4437
40.00	8.7267	\$13.0900
41.00	9.1685	\$13.7527
42.00	9.6212	\$14.4317
43.00	10.0848	\$15.1271
44.00	10.5593	\$15.8389
45.00	11.0447	\$16.5670
46.00	11.5410	\$17.3115

47.00	12.0483	\$18.0724
48.00	12.5664	\$18.8496

3. For pipelines with an adjusted diameter not listed above, the fees shall be in the same proportion to the fees of a 12-inch diameter pipe as the diameter of the unlisted pipe is to 12 inches.

4. The highway space occupied by any other appurtenance(s), such as manholes, valves, cathodic protection systems, connections, and any other structure, the volume shall be computed using the outside dimensions of the structure.

5. The highway space occupied by overhead communications lines shall be taken as one-fifth (1/5) cubic foot per linear foot of highway route occupied, being equivalent to a rate of thirty cents (\$0.30) per linear foot ($\$1.50 \times 1/5 = \0.30).

E. The total amount of the base annual franchise fee payment shall be calculated as set forth in Section 2.D above and adjusted each calendar year, including the year of granting of this franchise, on the applicable fee payment date in accordance with the following formula, provided however, in no event shall the total adjusted annual franchise fee thereof be less than two thousand five hundred dollars (\$2,500):

1. The "Producer Price Index ("PPI") for all Commodities (1982 = 100)," as published by the United States Department of Labor, Bureau of Labor Statistics/Office of Information ("Bureau"), shall be defined as the "index," and such index as it stands on the date this ordinance amending the franchise becomes effective shall be defined as the "base index," which is declared to be 100, and the

index for the month of September immediately preceding the fee payment date shall be defined as the "current index";

2. If the current index differs from the base index, then the base annual fee shall increase or decrease by the percentage increase or decrease between the current index and the base index, provided that, if the current index drops below the base index, no adjustment shall be made. The base annual fee shall be multiplied by an adjustment factor determined by dividing the current index by the base index. For example, if the base index is 200 and the current index is 210, the annual franchise fee shall be one hundred and five percent (i.e., $210 / 200 = 1.050 = 105\%$) times the base annual fee, provided however, under no circumstances shall the multiplying factor be less than one, nor shall the annual franchise fee calculated using said factor, be less than the base annual fee. If the Bureau shall revise the index, the parties hereto shall accept the method of revision for conversion recommended by the Bureau; and

3. If the Bureau discontinues the preparation or publication of the PPI for all commodities (1982 = 100), and if no transposition table prepared by the Bureau is available applicable to the year of 1982, then the amount of each annual franchise fee shall be computed by reference to such other price index as may be chosen by the County, and the County shall be the sole judge of comparability of successive indices and its determination on this point shall be final and conclusive. In no event shall the amount of annual franchise fee payment calculated according to the base rate and adjusted by reference to such other price index be less than the base annual fee as set forth in Section 2.D above.

F. In addition to the foregoing annual franchise fee, the Franchisee shall also pay:

1. The County Department of Public Works, Construction Division, Permit Section, within sixty (60) days after the end of each calendar year, for each year of the life of the franchise, an initial construction charge calculated at a rate of one hundred dollars (\$100) per mile, or fraction thereof, for all new main lines laid during that preceding calendar year.

2. The County Auditor-Controller, within sixty (60) days after the end of each calendar year, for each year during the life of the franchise, an annual fee of twenty-five dollars (\$25) per pole-mile, or portion thereof, for aerial or above-ground lines, and twenty-five dollars (\$25) per mile, or portion thereof, for underground conduit for wire, cable, telephone, or telegraph lines maintained under the franchise during that preceding calendar year.

G. The County reserves the right to change its method of calculating fees and the amount thereof, not more frequently than once every five (5) years, if the Board of Supervisors ("Board") determines after a public hearing that good cause exists for such change, and such change is not in conflict with the laws of the State of California.

H. The Franchisee shall also pay any application fees, administrative fees, processing fees, late charges, accrued interest, and penalties required in connection with this franchise. These fees may be charged at the then-current applicable rates.

SECTION 4. SECTION 6. G of Ordinance No. 99-0068F, as amended, is amended to read as follows:

G. A transfer fee shall be submitted with the proposed transferee's request for the County's consent to any action described in subsection 6.A., ~~supra~~ and shall be determined as follows:

1. Consent to sale, transfer, transfer of stock, assignment, lease, hypothecation, trust or change in control or any other action ~~not requiring modification of~~ in which the County does not elect to modify the franchise by adoption of an amending ordinance: ~~Onetwo Tthousand five hundred Ddollars (\$1,000\$2,500)~~.

2. Consent to sale, transfer, transfer of stock, assignment, lease, hypothecation, trust, or change in control or any other action ~~requiring modification of the franchise~~ in which the County does elect to modify the franchise by adoption of an amending ordinance: ~~Twofive Tthousand Five Hundred Ddollars (\$2,500\$5,000)~~.

3. In the event the costs to process the application exceed the fees detailed above, the proposed transferee may be required to pay any additional costs incurred by the County in processing the proposed transferee's request for consent to sale, transfer, transfer of stock, assignment, lease, hypothecation, trust, or change in control of franchise. Such costs may include the costs incurred for hiring consultants to assist in evaluating the application. Such costs shall be paid by the proposed transferee prior to final consideration of the request by the ~~CAO~~CEO, or the Board of Supervisors, as applicable.

[BPWCPPFRNGCCC]

SECTION 5. This ordinance shall be published in The Metropolitan News a newspaper printed and published in the County of Los Angeles.



Zev Yaroslavy
Chairman

ATTEST:

Sachi A. Hamai
Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of November 27, 2007 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

Ayes

Supervisors Yvonne B. Burke
Don Knabe
Michael D. Antonovich
Zev Yaroslavy

Noes

Supervisors Gloria Molina

Effective Date: December 27, 2007

Operative Date: _____

Sachi A. Hamai
Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By [Signature]
Deputy



APPROVED AS TO FORM:
RAYMOND G. FORTNER, JR.
County Counsel

By Leela Kapur
Leela Kapur
Chief Deputy County Counsel